MASTER AND SERVANT—SERVANT'S DUTY TO INSPECT.—Plaintiff was employed by defendant as an electric lineman, and was directed by his foreman to climb a pole for the purpose of repairing or removing a wire attached thereto. While he was doing his work near the top of the pole, it fell, seriously injuring him. The fall of the pole was due to the general rotten condition of the part beneath the ground, but there was nothing in its appearance calculated to put him on notice, and there was no rule or custom imposing upon him the duty of inspection before ascending the pole. *Held,* defendant was liable. *Terrel* v. *City of Washington,* (N. C. 1912) 73 S.E. 888.

Contrary to the conclusion reached in the principal case, the great weight of authority is that an experienced lineman assumes the risk of the breaking of any pole he is called upon to climb in the course of his employment, if the defect which caused the pole to break was not of original construction, and that therefore his employer owes him no duty to inspect the pole before sending him upon it. *Britton* v. *C. U. T. Co.,* 131 Fed. 844, 65 C. C. A. 598; *Kellogg* v. *Denver City Tramway Co.,* 18 Colo. App. 475, 72 Pac. 609, 8 Am. Elec. Cas. 749; *McGorty* v. *So. N. E. T. Co.,* 69 Conn. 635, 38 Atl. 359; *Southern Bell T. & T. Co.* v. *Starnes,* 122 Ga. 602, 50 S.E. 343; *DeFrates* v. *C. U. T. Co.,* 243 Ill. 356, 90 N.E. 719; *Evansville G. &E. L. Co.* v. *Raley.* 38 Ind. App. 342, 76 N.E. 548; *Eigenbrod* v. *Cumberland T. &T. Co.,* 121 La. 228,, 46 South 219; *Con. G. E. L. & P. Co.* v. *Chambers,* 112 Md. 324, 75 Atl. 241, 26 L. R. A. (N.S.) 509; *McIsaac* v. *Northampton E. L. Co.,* 172 Mass. 89, 51 N.E. 524, 70 Am. St. Rep. 244; *Lynch* v. *S. V. Tract. Co.,* 153 Mich. 174, 116 N.W. 983, 21 L. R. A. (N.S.) 774; *Saxton* v. *N. W. T. Ex. Co.,* 81 Minn. 314, 84 N.W. 109; *Essex Co. E. Co.* v. *Kelly,* 60 N. J. L. 306, 37 Atl. 619, 5 Am. Elec. Cas. 360; *Flood* v. *W. U. T. Co.,* 131 N. Y. 603, 30 N.E. 196, 4 Am. Elec. Cas. 402; *Cumberland T. & T. Co.* v. *Loomis,* 87 Tenn. 504, 11 S.W. 356; *S. W. T. Co.* v. *Tucker,* 102 Tex. 224, 114 S.W. 790; *Sias* v. *Cons. L. Co.,* 73 Vt. 35, 50 Atl. 554, 8 Am. Elec. Cas. 787; *Goddard* v. *I. T. Co.,* 56 Wash. 536, 106 Pac. 188. If however it is shown to be the custom and practice of the employer to inspect the poles, it would be responsible for the performance of such duty. *McGuire* v. *B. T. Co.,* 167 N. Y. 208, 60 N.E. 433, 52 L. R. A. 437; *Essex Co. E. Co.* v. *Kelly, supra; McDonald* v. *P. T. Co.,* 22 R. I. 131, 46 Atl. 407. The same rule of liability extends to the inspection of poles used but not owned by the employer. *Dixon* v. *W. U. T. Co.,* 71 Fed. 143. The same rules of law are applicable to cross arms upon poles; *Roberts* v. *M. & K. T. Co.,* 166 Mo. 370, 66 S.W. 155; and to spikes or steps on poles; *Little* v. *H. P. E. L. Co.,* 191 Mass. 386, 77 N.E. 716. But it seems that a lineman will not be held to assume the risks arising from defects in the original construction of the pole or its appurtenances. *Livingway* v. *Houghton Co. S. R. Co.,* 145 Mich. 86, 108 N.W. 662; *Chisholm* v. *N. E. T. & T. Co.,* 185 Mass. 82, 69 N.E. 1042. An experienced lineman ordinarily will not be held to have assumed the risk of latent defects. *Jackson F. Co.* v. *Meadows,* 159 Fed. 110, 86 C. C. A. 300; *Lord* v. *Wakefield,* 185 Mass. 214, 70 N.E. 123. On the general subject of liability to linemen see, 2 JOYCE, ELECT. LAW, Ed. 2, §§ 656-8. The operation of an electric lighting plant by a municipality, being a private and not a governmental function, subjects it to the same liability

as an individual or private corporation in like circumstances. *Fisher* v. *New Bern,* 140 N. C. 506, 53 S.E. 342, 5 L. R. A. (N.S.) 542, 111 Am. St. Rep. 857; *Bullmaster* v. *St. Joseph,* 70 Mo. App. 60; *Henderson* v. *Young,* 26 Ky. L. Rep. 1152, 83 S.W. 583.

MASTER AND SERVANT—SOLICITATION OF TRADE BY FORMER EMPLOYEE.—Defendant was formerly employed by plaintiff in selling butter and eggs to customers most of whom had dealt with the plaintiff for some time, though defendant, during the course of his employment, added some new customers to his selling list. The names of all these parties were listed in the city directory as retail dealers in butter and eggs. After leaving plaintiff's employ, defendant continued to sell to most of these persons, and plaintiff seeks to enjoin him. *Held,* in the absence of an express contract, defendant cannot be perpetually prevented from using the knowledge gained while in plaintiff's employ for his own benefit now that the contract of employment has expired. *Boosing* v. *Dorman et al.* (1912), 133 N. Y. Supp. 910.

The precise question under such a statement of facts does not seem to have been passed upon before. Contracts in restraint of trade have been held to be good where they were confined to a particular territory or covered a definite period of time, even though the law does not favor them, *Ropes* v. *Upton,* 125 Mass. 258; *Watson* v. *Ross,* 46 Ill. App. 188; *Tallis* v. *Tallis,* 22 L. J. Q. B. 185, such as contracts restraining agents or employees from competing with their employers after employment ends. *Jarvis Adams Co.* v. *Knapp,* 121 Fed. 34; *Harrison* v. *Glucose, etc. Refining Co.,* 116 Fed. 304; *Carnig* v. *Carr,* 167 Mass. 544. Also secret processes of manufacturing have been protected when the servant acquired knowledge of them purely by reason of his employment. *Peabody* v. *Norfolk,* 98 Mass. 452; *Tabor* v. *Hoffman,* 41 Hun. 5, affirmed in 118 N. Y. 30; *Stone* v. *Goss,* 65 N. J. Eq. 756; *Thum* v. *Tloczynski,* 114 Mich. 149. But in the principal case, the court refuses to take the next step suggested by the facts in the principal case, saying "the knowledge which Dorman acquired by calling upon customers * * * with regard to their habits of buying, their financial worth, and their individual characteristics and preferences, can hardly be denominated 'trade secrets' which the employee is prohibited from using after the termination of his employment, in the absence of an express contract." As said in *Gossard Co.* v. *Crosby,* 132 Iowa 155, 109 N. W. 483; "The allegation that appellee is profiting by the experience and knowledge which she obtained in appellant's service alleges no legal wrong. An employee leaving the employer's service cannot leave the experience or knowledge there acquired." To the same effect, *Rogers Mfg. Co.* v. *Rogers,* 58 Conn. 356; *Sternberg* v. *O'Brien,* 48 N. J. Eq. 370; *Chain Belt Co.* v. *Von Spreckelsen,* 117 Wis. 106.

MUNICIPAL CORPORATIONS—ASSESSING RAILROAD RIGHT OF WAY FOR LOCAL IMPROVEMENTS.—Under the charter of St. Louis providing that "all the property" within a district to be specified should be assessed for street improvements, an assessment for the reconstruction and paving of a street was imposed on land owned by defendant company and used solely as a right of